S.B.

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Writ Petition No. 1903 /2003.

PETITIONER : Bhuwaneshwar Chandrakar
S/o Amar Nath Chandrakar,
aged about 36 years,
resident of Shiva Ghat, Sarkanda,
Tehsil & Distt. Bilaspur (C.G.)

P. R. No. ... Presented by Shri S.K. Chakraborty ... dated 20.06.03 ...

Versus

RESPONDENT : State of Chhattisgarh
Through : Secretary,
P.W.D. Mantralay,
D.K.S. Bhavan, Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA :

(40)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1903 सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2-7-2003	

Shri N.K. Chatterjee, counsel for the petitioner.

Shri S.K. Agrawal, Deputy Advocate General takes notice on behalf of the State / respondent.

By this petition filed under Articles 226 / 227 of the Constitution of India the petitioner has challenged the order dated 30th April 2003, Annexure-P/1, by which the petitioner has been transferred from Bilaspur to Raigarh.

The case of the petitioner is that he is working as tracer in the Public Works Department at Bilaspur in Division No.1 since 28-5-1990 and one more employee on the same post Mr. D.P. Kshatriya is working since 13-1-1983. During whole service the petitioner's career is unblemished and good and during this period there was no complaint against the conduct of the petitioner, but surprisingly the petitioner has been transferred by the respondent which is humiliating and oppressing. The petitioner's wife Meena Chandrakar is suffering from psychological disorder since 1998 and she is under the treatment of physician namely, Nitin Mallik at Raipur and the petitioner has to always look after her and on account of the transfer the petitioner will not be able to look after his wife. The impugned transfer order Anneuxre-P/1 is arbitrary, mala-fide, oppressive and prejudicial to the interest of the petitioner and Mr. D.P. Kshatriya is working at Bilaspur since 1983, being prior in time he is working at Bilaspur therefore, he should have been transferred, instead of that the petitioner has been transferred which

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आदेश पत्रक

मामला क्रमांक WP/1907/07 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

offends Article 14 of the Constitution of India. Therefore, by way of writ in the nature of mandamus the respondents be directed not to execute the order Annexure-P/1, the same being arbitrary, unjust, discriminatory, unconstitutional and violative of the provisions of the Constitution of India.

I have heard the learned counsel for the petitioner.

During the course of arguments, the learned counsel for the petitioner reiterated what has been mentioned in the writ petition and submitted that the petitioner made a representation against his transfer even that has not been considered. It is not disputed that the petitioner is working as tracer in the Public Works Department at Bilaspur since 1990, therefore, he has completed around about 13 years of service at Bilaspur. The ground taken by the petitioner is that one Mr. D.P. Kshatriya is working on the similar post since 1983 at Bilaspur has not been transferred, whereas he has been transferred, he is working at Bilaspur 7 years prior to the petitioner.

I do not find any substance in this argument of the learned counsel for the petitioner that no employee can have any grudge against the transfer policy and no employee has a right to suggest that which employee is to be transferred. The transfers are made in the public interest and also looking to the suitability of the particular employee on a particular post in the interest of smooth functioning of the job to which the particular employee has to perform in his official capacity. Therefore, the employee has no right to question the transfer on the ground that in his place the

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आदेश पत्रक

मामला क्रमांक WP/907/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

other employee should have been transferred. Of course he is entitled to question his transfer if the same has been made on account of malafide, bias or contrary to any policy laid down by the Government.

A perusal of the petition shows that the petitioner has not been able to place on record that his transfer has been made on account of any bias or malafide of any of the officer; therefore, on this ground I do not find any force in the petition of the petitioner.

As far as the second ground taken by the petitioner that his wife is a patient of psychological disorder and she is being treated at Raipur by Dr. Nitin Mallik and she does not want to leave the Bilaspur, therefore, on the humanitarian ground to allow the petitioner to work peacefully it is necessary that he should remain at Bilaspur only.

In this submission also I do not find any force because the wife of the petitioner is being treated at Raipur and that treatment can also be taken from Raigarh because from Bilaspur to Raipur it takes about 2 ½ hours and from Raigarh to Raipur will take 3 hours more. Moreover it has not been mentioned that with how much interval the petitioner's wife is being taken to Raipur. The petitioner has served 13 years at one place and the disease of the petitioner's wife is such it will remain during whole life that does not mean that the petitioner will remain during his whole service at Bilaspur. This ground regarding the ailment of his wife it is for the concerned authorities if they think that the petitioner can be adjusted then they can do so. But on this ground the Court cannot interfere with his transfer.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1903/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Barwal	For the reasons mentioned above, I do not find any force in this petition and the same is liable to be and is dismissed. Consequently, the applications {M.(W.)P. No. 1717/2003, I.A. Nos. 5691/2003 & 5692/2003} stand disposed of. Sd/- L.C.BHADOO Judge	